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November 9, 2011

VIA E-FILING AND REGULAR MAIL

Honorable Tucker L. Melançon
Visiting United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Chubb & Son Inc. v. Kelleher

92 CV 4484
Marilyn Forem

Dear Judge Melançon:

On behalf of Plaintiffs ("Chubb"), we write in response to the Court's Order, entered following the November 3, 2011 telephone conference, directing Chubb to provide the Court with authority in the record that supports the claim for aiding and abetting breach of fiduciary duty. The gravamen of this claim is that Mrs. Forem bribed or supplied the money that was used to bribe a Chubb employee, Michael Kelleher, to breach his duty to Chubb in the adjustment of Mrs. Forem's property damage claims.

In a related case, *Chubb & Son Inc. v. James Kelleher*, 95 CV 0951 (D.E. 138), Judge Amon directly addressed this issue in denying a motion to dismiss, holding:

Accepting as true that Chernoff knowingly authorized payment of a bribe to Kelleher to induce Kelleher to breach his fiduciary duty to his employer [Chubb] presenting a loss and procuring an inflated settlement on a claim, plaintiffs have sufficiently alleged a claim for inducing or aiding and abetting a breach of fiduciary duty against Chernoff.

See February 26, 1998 Memorandum and Order at 145-46; *see also* 66-67. (Also docketed in 92-cv-4484, D.E. 875.)

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In addition, it its pretrial submissions, Chubb cited authority for its aiding and abetting breach of fiduciary claim on page 6 of Plaintiffs' Trial Brief (D.E. 1586), and in the sources listed for Instructions No. 13-16 of Plaintiffs' Proposed Jury Instructions (D.E. 1584).

Respectfully submitted,



William B. Pollard, III

cc: Kim D. Hogrefe, Esq.

VIA E-MAIL

Marilyn Forem

VIA FAX AND MAIL